IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 1358 OF 2006 .

M/s PCE Electro Controls P.Ltd.... Petitioner.
V/s.
Asstt. Provident Fund Commr. ... Respondent.

Shri M.S. Topkar for the petitioner.

Shri S.S. Sonar for the respondent.

CORAM : V.C.DAGA, J.

DATED : 18.3.2006.

P.C. :

. Heard rival parties.

. Rule returnable forthwith. Shri Sonar waives service on behalf of the respondent.

. This petition is directed against the order dated 11.3.2006; whereby Assistant Provident Fund Commissioner, Kolhapur, was pleased to hold that the application for review filed under section 7B of the Employees Provident Fund Act on 24.1.2005 was barred by limitation. The limitation appears to have been calculated from the date of the order i.e. 29.11.2004 and not from the date of knowledge or service of the impugned order.

. It is needless to mention that as per Apex Court judgment in the case of **Saibaba vs. Bar Council - 2003(6) SCC 186** the limitation starts

running from the date of communication of the order and not from the date thereof.

. The postal endorsement placed on record (at page 20) does suggest that the order was delivered to the petitioner on 12.1.2005. In that view of the matter, knowledge of the order can be imputed on 12.1.2005 and not prior to that. Thus, limitation for filing review petition under section 7 B of the Act shall start running from the date of communication of the order and not from the date of the order.

. On the above backdrop, the view taken by the Assistant Provident Fund Commissioner that the review petition is barred by limitation is unsustainable and is liable to be quashed and set aside.

. In the result, impugned order dated 11.3.2006 is quashed and set aside and the review petition is restored to file of the Assistant Provident Fund Commissioner. He is directed to hear and decide review petition on its own merits as expeditiously as possible at any rate, within three months from the date of communication of this order.

. Petitioner to appear before the Assistant Provident Fund Commissioner on 27.3.2006, who shall

fix the date of hearing.

. Rule is made absolute in terms of this order with no order as to costs.

(V.C.DAGA,J.)